

REMARKS

In the June 30, 2008 Office Action, all of pending claims 1-4 stand rejected in view of prior art. No other objections or rejections were made in the Office Action.

Status of Claims and Amendments

In response to the June 30, 2008 Office Action, Applicants have amended claims 1 and 2, and cancelled claims 3 and 4 as indicated above. Thus, claims 1 and 2 are pending, with claim 1 being the only independent claim. Reexamination and reconsideration of the pending claims are respectfully requested in view of above amendments and the following comments.

Rejections - 35 U.S.C. § 102

On page 2 of the Office Action, claims 1 and 3 stand rejected under 35 U.S.C. §102(b) as being anticipated by Japanese Patent Publication No. 57-176686 (hereinafter "Komine"). Claims 1 and 3 also stand rejected under 35 U.S.C. §102(b) as being anticipated by Japanese Patent Publication No. 08-165995 (hereinafter "Yagi"). In response, Applicants have incorporated the limitations of claim 4 into independent claim 1, and cancelled claims 3 and 4. The Office Action acknowledges that the arrangement of claim 4 is not disclosed or suggested by Komine or Yagi alone. Thus, these rejections are now believed to be moot. Specifically, Kusunoki and Yagi merely disclose that rollers with one end surface that has a larger width than another end but Kusunoki and Yagi are silent about the relationship between the end surfaces of the roller and the high pressure port.

It is well settled under U.S. patent law that for a reference to anticipate a claim, the reference must disclose each and every element of the claim within the reference. Therefore, Applicants respectfully submit that claim 1, as now amended, is not anticipated by the prior art of record. Accordingly, withdrawal of this rejection is respectfully requested.

Rejections - 35 U.S.C. § 103

On pages 2 and 3 of the Office Action, claim 2 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Yagi in view of Japanese Patent Publication No. 01-134092 (hereinafter "Shimomura"), and claim 4 stand rejected under 35 U.S.C. §103(a) as

being unpatentable over Yagi in view of Japanese Patent Publication No. 2001-099083 (hereinafter "Matsumoto"). In response, Applicants have incorporated the limitations of claim 4 into independent claim 1, and cancelled claims 3 and 4 as mentioned above. Thus, all of the rejections of the Office Action are now moot, except for the rejection based on Yagi in combination with Shimomura. This rejection is respectfully traversed, as explained below.

Independent claim 1 now requires a rotary fluid machine comprising:

- a cylinder arranged in an airtight container and including first and second cylinder bodies, first and second end plates arranged at first and second opposite end portions of the first and second cylinder bodies outside the first and second cylinder bodies, and a partition plate sandwiched between the first and second cylinder bodies, each of the first and second plates having a high pressure port; and
- first and second roller portions disposed in the first and second cylinder bodies, respectively, the first and second roller portions including first and second cut portions, respectively,
- each of the first and second roller portions slidably contacting the partition plate and one of the first and second end plates, respectively, each of the first and second roller portions having an end surface facing a respective one of the first and second end plates that has a larger width than an opposite end surface disposed to face the partition plate, and
- a gas discharged through the high pressure ports being temporarily retained in the airtight container.

That structure is **not** disclosed or suggested by Shimomura, Yagi, Matsumoto, or any other prior art of record.

In particular, Yagi merely disclose roller with one end surface that has a larger width than another end but is silent about the relationship between the end surfaces of the roller and the high pressure port. Shimomura makes no mention of the claimed width of the ends of the cylinder bodies. Matsumoto merely discloses a compressor that has two cylinder bodies and a roller. Larger ends disposed adjacent to end plates with high pressure ports are not mentioned whatsoever. Thus, if one of ordinary skill in the art modified the device of Yagi to include two cylinder portions as asserted in the Office Action, there is no reason to flip over one of the cylinder portions to result in the unique arrangement of independent claim 1 as now amended. It is well settled in U.S. patent law that the mere fact that the prior art can be

modified does *not* make the modification obvious, unless the prior art provides an *apparent reason* for the desirability of the modification. In this case, the prior art of record lacks any apparent reason, suggestion or expectation of success for combining the patents to create the Applicants' unique arrangement of a rotary fluid machine. Rather, the only reason to create a dual cylinder compressor with larger width ends of the cylinder portions facing in opposite directions is found in the instant application. Thus, the conclusion is inescapable that the Office Action is relying on impermissible hindsight gleaned from Applicants disclosure in an unsuccessful attempt to reconstruct the claimed invention, even though at least one feature of the present invention is not found in any of the cited references.

In the present application, the end plate sides of the cylinder bodies have larger widths than the partition sides of the cylinder bodies. Due to this arrangement, the hydraulic pressure that works on the ends with the larger notches is larger than that of plate sides and prevents elastic deformation of the both end plates. In other words, as illustrated in Fig. 9 of the present application, the rotary fluid machine is formed in a high pressure dome shape such that the high pressure gas fills in the airtight container and lubricant oil that the high pressure gas works is supplied to the inner circumference of the roller. Therefore, as seen in Fig. 9 of the present application, the force causes from the partition plate sides that have larger notch to the both end plate sides that have the smaller notches. Concurrently, the high pressure gas works on the both end plates from outside but a part of this high pressure gas on the both end plates will be cancelled by being pushed against both end plates with aforementioned lubricant. According to this, enlarging the gap between the roller and the both end plates is prevented and leakage of the gas between the roller and the both end plates. In contrast, Yagi discloses a roller that has a tapered shape inner circumference and this roller does not have a cut portion or notch, as claimed. Therefore in the structure of Yagi, the hydraulic pressure that works on the smaller width end surface would be smaller than that of the larger width end surface so that the structure of Yagi cannot prevent the elastic deformation achieved by the claimed arrangement. Thus, Applicants assert that the invention described in the present application would not be achieved if the structures of Yagi and Matsumoto are combined as asserted in the Office Action because these references (due to this pressure differential) teach away from such a combination.

Appl. No. 10/559,935
Amendment dated September 30, 2008
Reply to Office Action of June 30, 2008

Applicants believe that the dependent claim 2 is allowable over the prior art of record in that they depend from independent claim 1, and therefore are allowable for the reasons stated above. Also, the dependent claim 2 is further allowable because it includes additional limitations. Thus, Applicants believe that since the prior art of record does not disclose or suggest the invention as set forth in independent claim 1, the prior art of record also fails to disclose or suggest the inventions as set forth in the dependent claims.

Thus, Applicants respectfully request that this rejection be withdrawn in view of the above comments and amendments.

Prior Art Citation

In the Office Action, additional prior art references were made of record. Applicants believe that these references do not render the claimed invention obvious.

* * *

In view of the foregoing amendment and comments, Applicants respectfully assert that claims 1 and 2 are now in condition for allowance. Reexamination and reconsideration of the pending claims are respectfully requested.

Respectfully submitted,

/Patrick A. Hilsmier/
Patrick A. Hilsmier
Reg. No. 46,034

GLOBAL IP COUNSELORS, LLP
1233 Twentieth Street, NW, Suite 700
Washington, DC 20036
(202)-293-0444
Dated: September 30, 2008

S:\09-SEP08-YTYDK-US055289 Amendment.doc